

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Determining the Proper
Carrier Classification of, and Complaint
for Penalties against:

CHERYL BALL d/b/a ACME MOVING
LABOR

DOCKET TV-161206

COMMISSION STAFF'S MOTION
TO AMEND COMPLAINT

I. INTRODUCTION

1 Commission Staff of the Washington Utilities and Transportation Commission
(Staff) submits this Motion to Amend Complaint pursuant to WAC 480-07-395(5).

II. RELIEF REQUESTED

2 Staff requests that the Commission allow an amendment to the Complaint issued
in Order 01, Order Instituting Special Proceeding; Complaint Seeking to Impose
Penalties; Notice of Hearing (Order 01) issued in Docket TV-161206.

III. STATEMENT OF FACTS

3 As supported by the Declaration of Michelle Shepler, attached to this motion, on
October 27, 2016, Staff was contacted by a consumer who had entered into an agreement
Acme Moving Labor. The consumer reported that Ms. Cheryl Ball was the Company's
owner and that Mr. Kedric Jackson was the person in charge of the move. The consumer
was concerned by the Company's request for more money to complete the move. The
consumer submitted to Investigator Shepler, a Commission Consumer Complaint
Investigator, the estimate that the Company had given and to which the consumer had
agreed. The estimate was dated October 24, 2016. The terms of that estimate provide that

Acme Moving Labor will sort, pack, and transport household goods to the consumer's new residence and to the consumer's storage unit.

4 On December 1, 2016, www.yelp.com contained an advertisement for Acme Moving Labor to provide household goods moving services. According to customer reviews staff found on www.acmemovinglabor.com, Cheryl Ball has been operating as a household goods carrier within the state of Washington without a permit.

5 On December 2, 2016, a Commission staff member under an assumed name, obtained a quote for a residential move. The operations manager Kedric Jackson of Acme Moving Labor, offered to transport household goods without first having obtained a household goods carrier permit from the Commission.

6 On January 5, 2017, the Commission entered Order 01. Order 01 required the Company to appear before the Commission at a group classification proceeding scheduled for January 25, 2017, at 9:00 a.m. That Complaint contained allegations that the Company was transporting household goods without the required operating authority from the Commission: first, on December 1, 2016, by advertising household goods moving services, and second, on December 2, 2016, by offering to transport the household goods of a Commission staff member who had contacted the Company under an assumed name. Reference to the consumer's dispute with Acme Moving Labor, reported to Investigator Shepler on October 27, 2016, was not included in Order 01.

7 On January 11, 2017, Acme Moving Labor (Acme Moving or the Company) filed a Request for Hearing and a Request to Continue Appearance before ALJ Scheduled for January 25, 2017.

8 On January 18, 2017, the Commission entered Order 02, Order Granting Request for Hearing (Order 02), which granted the Company's request to move the hearing to

another date. In Order 02, the Commission determined that a brief adjudicative proceeding (BAP) was appropriate for this matter. It also directed Staff and the Company to confer and propose a date and time for the BAP.

9 After the parties were unable to agree to a date for the BAP, the Commission issued Order 03, Notice of Brief Adjudicative Proceeding; Order Setting Time for Oral Statements (Order 03), on January 26, 2017. The Commission selected Monday, March 6, 2017, at 9:30 a.m., as the date for the BAP.

IV. STATEMENT OF ISSUES

10 Whether the Commission should allow Staff to amend and update the Complaint in docket TV-161206 with the new date for hearing (March 6, 2016) consistent with Order 03 and with information from a consumer dispute reported to Staff on October 27, 2016, concerning Acme Moving Labor Services, which bears on the true nature and extent of the Company's operations.

V. EVIDENCE RELIED UPON

11 Staff relies upon the estimate submitted to the Commission's Consumer Complaint Investigator by a consumer who had entered into an agreement with Acme Moving Labor, as well as the consumer's corroborating correspondence regarding the dispute with the Company. The consumer submitted to Staff the estimate provided by Acme Moving Labor, to which the consumer had agreed, providing for the loading, transportation, and unloading of the consumer's property. The estimate and the communications between the consumer and the Company support the conclusion that the Company offered, entered into an agreement, and transported goods as a household goods mover without the required authority from the Commission.

12 This evidence is supported by the declaration of Investigator Michelle Shepler, a Consumer Complaint Investigator at the Commission, who received the report from the consumer and opened the inquiry into the incident. Investigator Shepler's declaration and supporting documentation, including the estimate and case report containing the correspondence between the Company and consumer, are attached to this motion.

VI. ARGUMENT

13 In Order 03 of this docket, the Commission determined that the BAP should be held on March 6, 2017. Staff believes updating the Complaint with this new hearing date, consistent with Order 03, will help to avoid any confusion going forward regarding when the parties should appear at the Commission, should Staff's proposed amendments be allowed by the Commission.

14 Staff intends to present evidence of the bill dispute at hearing. And while amending the Complaint is unnecessary for this purpose, Staff believes it is appropriate to update the Complaint with this information in order to promote fair and just results. The date for the BAP is more than a month after the date of the filing of this motion. Updating the Complaint with this information now, instead of waiting until the hearing, will provide the Company and the Commission with adequate time to consider the particular allegations, and supporting documentation, for which Staff will present evidence at hearing. Amending the Complaint with this information now may also aid in any settlement negotiations in which the parties may engage.

15 The Commission has the legal authority to allow Staff's proposed amendments to the complaint in this docket. The Commission exercises quasi-judicial authority within its jurisdiction. *See e.g.* RCW 80.01.040; 80.01.060; 80.04.015; 80.04.020; 80.04.110; 80.04.160; 81.04.020; 01.04.120; 81.04.200. The Commission has the authority to "adopt
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rules to govern its proceedings, and to regulate the mode and manner of all . . . hearings.” RCW 80.04.180. The Commission has the authority to alter or amend any of the orders it issues. RCW 81.04.210. In the case of pleadings, “the Commission may allow amendments to pleadings, motions, or other documents on such terms as promote fair and just results.” WAC 480-07-395(5).

16 Amending the complaint will aid the Commission’s inquiry into whether the Company should be classified as a company conducting operations that need Commission authorization. Each person or company must have a “permit from the commission before transporting household goods, for compensation, by motor vehicle . . . or before advertising, soliciting, offering, or entering into an agreement to transport household goods.” WAC 480-15-180. In a special proceeding, the Commission’s primary concern is whether the Company is conducting business that requires operating authority from the Commission. RCW 81.04.510. To make this determination, the Commission considers “any and all facts that may indicate the true nature and extent of the operations or acts” of a company. RCW 81.04.510. The information reported by the consumer of a dispute with the Company and the related estimate of October 24, 2016, describe the services that Acme Moving Labor offered to provide and strongly supports the conclusion that the Company was operating without authority from the Commission as a household goods mover and should be classified as such.

17 Staff has attached to this motion for the Commission’s consideration: a copy of Staff’s Proposed Amended Complaint; a copy of the original complaint with proposed amendments marked with underlinings and strikethroughs; and, the Declaration of Investigator Shepler with attachments.

VII. CONCLUSION

Commission Staff requests that the Commission allow the complaint (Order 01) to be amended as proposed.

DATED this 31 day of January 2017.

Respectfully submitted,
ROBERT W. FERGUSON
Attorney General

A handwritten signature in black ink, appearing to read "Andrew J. O'Connell", written over a horizontal line.

ANDREW J. O'CONNELL
Assistant Attorney General
Counsel for Washington Utilities and
Transportation Commission Staff